

# **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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Number: DAO 202-810

Effective Date: 2007-09-18

## **SECTION 1. PURPOSE.**

.01 This Order outlines authorities, establishes policies and describes responsibilities for administration and management of the centralized operation of the Workers' Compensation Program under the Federal Employees' Compensation Act (FECA).

.02 This is a general revision which: defines responsibilities related to workers' compensation; identifies procedures for return-to-work; highlights need to report fraud, waste, and abuse; and generally updates the Order.

## **SECTION 2. AUTHORITY.**

.01 The authority for providing compensation benefits to federal employees for injuries and illnesses sustained while in the performance of duty is governed by FECA, as amended, 5 United States Code (USC) § 8101 et seq. This Act is administered by the Secretary of Labor.

.02 Administrative regulations implementing FECA are set forth in 20 Code of Federal Regulations (CFR) Part 10.

## **SECTION 3. REFERENCES.**

.01 The following references apply to this Order:

a. Federal Employees' Compensation Act, 5 USC, Chapter 81.

b. 29 CFR Part 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs.

c. Department Administrative Order (DAO) 209-3, "Injury, Illness, Accident, and Fatality Investigation and Reporting."

d. Injury Compensation for Federal Employees, Publication CA-810, prepared by the Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor (DOL).

e. Questions and Answers, Publication CA-550, prepared by the Office of Workers' Compensation Programs, Employment Standard Administration, DOL.

## **SECTION 4. APPLICABILITY AND SCOPE.**

This Order applies to all Department of Commerce (the Department) bureaus, agencies, offices, operating units, and other components with the exception of the United States Patent and Trademark Office.

# **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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## SECTION 5. POLICY.

- a. The Department will manage a centralized workers' compensation program that provides rightful benefits to eligible employees, or their dependents or survivors; assists employees with processing claims and related documents in a timely, efficient manner; and works closely with injured employees and supervisors to return the employee to work. The Department will work to offset the costs of injuries caused by a third party by seeking reimbursement. The Department will notify DOL of errors that include inaccurate reporting, overpayments, and death of claimants. The Department will limit the costs of the program by aggressively working to return all employees to work as soon as possible after the injury or illness and within physician's restrictions.
- b. Bureau leadership will minimize workers' compensation costs to the extent possible through focusing on return-to-work opportunities and oversight of Department charge-back reports.

## SECTION 6. DEFINITIONS.

.01 The following definitions are applicable to this Order:

- a. **Benefits.** Payment of medical expenses and compensation for wage loss for an employee who has suffered a work-related injury or occupational illness/disease. Benefits also include payment to dependents of employees who die from work-related injuries or illnesses.
- b. **Chargeback Report.** A report prepared by DOL that details the medical and compensation costs paid for each agency workers' compensation claim during the reporting period. The report is submitted to the agency quarterly.
- c. **Continuation of Pay (COP).** The process by which an eligible employee's regular pay may continue for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury. COP is not paid in cases of occupational illness.
- d. **Controversion.** The process by which a supervisor or an agency recommends to DOL, Office of Workers' Compensation Programs (OWCP), that COP be denied.
- e. **Occupational Illness/Disease.** A condition produced by an exposure in the work environment over a period longer than a single workday or shift.
- f. **Leave Buy-Back.** A program that allows an injured worker to repurchase leave used in association with a work-related disability. An employee may elect to use annual or sick leave during the period of disability, he/she may later claim compensation for the period of disability and "buy back" the leave used.
- g. **Light Duty.** Those duties and responsibilities that are outside an employee's regular position, but that meet the employee's current work capabilities as identified by a physician. They may be performed for a full work shift or for shorter time periods.

# **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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h. Limited Duty. Specific duties and responsibilities of an employee's regular position that meet the employee's current work capabilities as identified by a physician. These duties may include all or part of the employee's regular job assignment. They may be performed for a full work shift or for shorter time periods.

i. Third Party. A work-related injury caused by a private party or a "third party" and not the Department. When an injury is caused by a private party the employee may be required to bring a claim against the party causing the injury. For example, an employee is injured in an automobile accident that was caused by a private citizen.

j. Periodic Roll Claims. If medical reports indicate that disability will continue for at least 60 days after COP, OWCP places the employee on the periodic roll and compensation payments are automatically paid by OWCP every 28 days with appropriate medical documentation. An injured employee will receive 75 percent of his/her salary in compensation payments if, at the time of the injury, the employee has dependents. An injured employee will receive 66 2/3 percent of his/her salary in compensation payments if he/she has no dependents.

k. Short Term Claims. Term for claims from the time of injury until employee is placed on the periodic roll.

l. Traumatic Injury. A condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.

## **SECTION 7. RESPONSIBILITIES.**

.01 Departmental Office of Human Resources Management (OHRM). The Director of OHRM (or designated staff member) serves as the Department's liaison officer with DOL. OHRM centrally administers the Department's Workers' Compensation Program and is responsible for program administration, management, operations, and the oversight of the workers' compensation contractor(s). The Director of the Office of Occupational Safety and Health is charged with carrying out the responsibilities of OHRM in this Order.

.02 Office of Occupational Safety and Health (OOSH). The OOSH will:

a. Establish policies, procedures, and guidelines that ensure effective and efficient management of the Workers' Compensation Program including:

1. Claims Assistance - assisting and counseling employees with their periodic roll claims and coordinating with employees, supervisors, and physicians to collect and send to DOL complete documentation when requested.

2. Leave-Buy-Back - assisting employees in pursuing their options under leave-buy-back and providing oversight of the leave-buy-back process.

## **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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3. Case Management - strategically managing periodic roll claims through monitoring medical evidence and work status.

4. Return-to-work - pursuing job modification(s) or other means of enabling employees to work within their restrictions; requesting vocational rehabilitation assistance where indicated; and coordinating re-employment efforts with DOL, which may cross organizational lines and reach outside the agency.

5. Costs - reviewing and providing charge-back reports to the Office of Financial Management (OFM) for compensation benefits paid for work-related injuries and deaths.

b. Provide necessary liaison with DOL, including:

1. Reviewing DOL hearing transcripts and providing to DOL relevant evidence and arguments supporting the Department's position, as appropriate.

2. Reviewing and reconciling charges for compensation benefits billed to the Department by DOL.

3. Periodically reviewing the Social Security Administration rolls to identify claimants who have died and notifying DOL of claimants' status.

4. Notifying DOL of the Department's position on specific third party claims for reimbursement and monitoring the recovery efforts through the final reimbursement.

5. Providing an assigned Medical Review Officer to act as the Department's representative, as necessary, in obtaining information from referral physicians to reconcile OWCP cases.

c. Review periodic roll claims for compensation; challenging questionable claims; referring possible fraudulent claims to the Office of Inspector General; accommodating partially recovered injured employees by maintaining contact with them and their supervisor and affording limited duty, as warranted by the medical documentation.

d. Establish an employee assignment team to identify potential return-to-work cases where suitable employment can be identified and obtained.

e. Provide or coordinate workers' compensation training to appropriate stakeholders.

f. Report fraud, waste and abuse within the Workers' Compensation Program.

.03 Office of Financial Management (OFM). OFM will:

a. Record DOL charges in appropriate suspense account(s).

b. Issue bills based on any distributions made by OHRM to appropriate operating units, at the lowest practicable level. For example, the lowest practicable level may be the first-line

# **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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supervisors.

c. Maintain appropriate records (subsidiary listing of charges and distributions for suspense accounts).

.04 Workers' Compensation Contractor. The contractor will:

a. Be responsible for all the terms and conditions described in the contract(s).

b. Perform periodic roll case management, as assigned.

c. Report fraud, waste and abuse within the Workers' Compensation Program.

.05 Supervisors and Managers. Supervisors and managers will:

a. Assist an employee who has reported a work-related injury in obtaining medical attention as quickly as possible.

b. Ensure injured employees are advised that workers' compensation guidance is available from the workers' compensation contractor and OOSH.

c. Complete the supervisor's section of Forms CA-1 (for traumatic injury) and/or CA-2 (for occupational disease) and any other required DOL form in a timely manner, and, in accordance with DOL operating guidance, and submit such form(s). Also, complete Form CD-137, "Report of Accident/Incident," and provide a copy to the bureau's safety office.

d. Coordinate with the Department's workers' compensation contractor and the injured employee's timekeeper to modify the time and attendance reports for COP or compensation, as appropriate.

e. Provide all relevant information to the workers' compensation contractor in relation to questionable claims, and, where appropriate, controvert COP in accordance with regulatory guidelines.

f. Provide any additional factual evidence to the workers' compensation contractor as required by DOL in its adjudication of claims.

g. Maintain regular contact with, and advise the employee of the availability of light and/or limited duty.

h. Serve on return-to-work teams when requested.

i. Report fraud, waste and abuse within the Workers' Compensation Program.

.06 Human Resources Offices. The Human Resources Office may be requested to provide:

## **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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- a. Personnel information required to establish eligibility for workers' compensation benefits.
- b. Copies of health benefit enrollment forms to establish entitlement to Federal Employees' Health Benefits.
- c. Retirement election forms.
- d. Position descriptions or copies of personnel actions.
- e. Information concerning the availability of light and/or limited duty jobs.
- f. Assistance in reemploying an injured employee.
- g. A human resources representative to serve on a return-to-work team.
- h. Report fraud, waste and abuse within the Workers' Compensation Program.

.07 Employees. Employees are responsible for:

- a. Notifying the supervisor promptly of any work injury or occupational illness which has caused, aggravated, or adversely affected a medical condition.
- b. Submitting the appropriate claim form to his/her supervisor within required time limits, as described on Form CA-1 and/or Form CA-2.
- c. Establishing that the injury, or illness was causally related to factors of employment through the submission of factual and medical evidence which supports the claim filed.
- d. Submitting claims for disability through his/her supervisor on a Form CA-7, "Claim for Compensation." The medical evidence submitted must support disability and/or medical treatment on the dates claimed.
- e. Advising the supervisor promptly when the treating physician has medically released him/her to light and/or limited full duty.
- f. Returning to work promptly when the treating physician has medically released him/her to light and/or limited full duty.
- g. Pursuing third party litigation when a third party caused or contributed to the injury or illness.
- h. Reporting fraud, waste and abuse within the Workers' Compensation Program. This includes receiving overpayments of benefits, not reporting outside earnings when receiving compensation, failing to repay to DOL requests for wage earnings, or receiving benefits when capable of returning to work.
- i. Reporting all changes in status such as changes in marital status and number of dependents.

# **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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.08 Other Claimants. Claimants for survivor benefits or for burial benefits are responsible for:

- a. Submitting the appropriate claim form to the employee's supervisor within required time limits.
- b. Establishing that the death was causally related to factors of employment through the submission of factual and medical evidence which supports the claim filed.

.09 Health Units. Health units are responsible for:

- a. Providing first aid for all injured employees, upon request.
- b. Referring injured workers for further medical treatment beyond the scope of the medical facility/health unit, at the request of the employee.
- c. Issuing to an employee, or person designated to act on behalf of the employee, the appropriate DOL forms and Form CD-137 (<http://www.osec.doc.gov/forms/direct.htm>) to report injury or illness.

## **SECTION 8. PROCEDURES.**

.01 New Claims.

- a. The supervisor will send all CA-1 and CA-2 claims for workers' compensation to the Department's workers' compensation contractor within two working days of receipt.
- b. The Department's workers' compensation contractor will:
  1. Review claims for completion and forward them to DOL for adjudication.
  2. Develop and submit the Department controversions of COP.
  3. Notify employees of receipt of claims and provide them information regarding their claims.
  4. Prepare memoranda approving COP approval and duration, when entitled.
  5. Work with the Department, supervisors, employees, DOL, and medical providers to ensure that the employees are receiving all benefits to which they are entitled.
- c. DOL is responsible for:
  1. Reviewing claims and requesting any additional information needed to adjudicate them.
  2. Accepting or denying claims based on the information provided.

## **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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3. Sending all claims and documentation related to an employee's death in the performance of duty to OOSH, OHRM.

4. Submitting quarterly chargeback reports to OOSH, OHRM detailing the medical and compensation costs paid per claim.

d. OOSH will:

1. Receive and electronically file all new CA-1s and CA-2s forwarded by the workers' compensation contractor.

2. Review the form to identify third party involvement.

3. Send a letter to DOL for all cases identified as third party involvement and request assistance in seeking reimbursement.

.02 Return-to-Work Program.

a. The Department of Commerce will make all feasible efforts to return an injured employee to work.

b. Upon receipt of medical documentation that indicates an injured worker may be able to return to the workplace in a full-time, light duty, or limited duty assignment, the Director of OOSH will implement the return-to-work procedures outlined in the current Human Resources Bulletin describing the Department's Workers' Compensation Return-to-Work Initiative.

### SECTION 9. FORMS.

.01 The following forms, available from OOSH, DOL or at <http://www.dol.gov/esa/regs/compliance/owcp/forms.htm> are required to establish a workers' compensation claim:

a. DOL Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation;"

b. DOL Form CA-2, "Notice of Occupational Disease and Claim for Compensation;"

c. DOL Form CA-5, "Claim for Compensation by Widow, Widower and/or Children;"

d. DOL Form CA-5b, "Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren;"

e. DOL Form CA-6, "Official Supervisor's Report of Employee's Death;" and

.02 The following forms may be used in a workers' compensation claim:

# **WORKERS' COMPENSATION FOR FEDERAL EMPLOYEES**

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- a. DOL Form CA-7, "Claim for Compensation;"
- b. DOL Form CA-16, "Authorization for Examination and/or Treatment;" and
- c. DOL Form CA-20, "Attending Physician's Report."

## **SECTION 10. EFFECTS ON OTHER ORDERS.**

This Order supersedes Department Administrative Order 202-810, dated November 24, 2004, and the provisions of all operating unit directives that prescribe authorities, responsibilities or policies related to workers' compensation.

**Signed by:** Director for Human Resources Management

**Approved by:** Chief Financial Officer and Assistant Secretary for Administration

**Office of Primary Interest:** Office of Human Resources Management